

# SPECIAL MEETING OF THE OKLAHOMA WORKERS' COMPENSATION COMMISSION

## ~ APPEALS ~

Friday, December 13, 2019

9:00 a.m.

Commission Chambers

1915 N. Stiles Ave.

Oklahoma City, Oklahoma

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### MINUTES

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Members present: Chairman Mark Liotta, Commissioner Jordan Russell, and Commissioner Megan Tilly.

Staff present to support the Commission: Lindsey Christopher, Dana Esparza, and Monica Pack.

#### **STATEMENT OF OKLAHOMA OPEN MEETING LAW COMPLIANCE**

Chairman Liotta stated the administrative meeting was being held in compliance with the Open Meetings Act.

**CALL TO ORDER.....Presiding Appellate Officer, Chairman Liotta**

Call to order 9:00 a.m. by Chairman Liotta, Presiding Appellate Officer.

**ROLL CALL.....Presiding Appellate Officer, Chairman Liotta**

After the roll call was taken, Chairman Liotta announced the presence of a Quorum.

#### **A. MINUTES:**

- The drafted Minutes of the Regular Appeal Meeting of November 22, 2019, were considered for approval.

**Motion:** Commissioner Tilly made a motion to approve the Regular Appeal Meeting of November 22, 2019, minutes.

**Second:** Commissioner Russell.

**Those Voting Aye:** Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: MINUTES APPROVED**

**B. Appeal Hearings before the Commission En Banc from Orders Issued by the Commission's Administrative Law Judges**

**1. Anthony Scott Martin v. City of Oklahoma City (Own Risk), File #CM2015-01079K**

Respondent filed an appeal from the order issued by Administrative Law Judge Curtin. James Biscone represented the Claimant and Steve Weeks represented the Respondent.

*Motion:* After reviewing the record, hearing oral arguments, and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

*Second:* Commissioner Russell.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: ALJ ORDER AFFIRMED**

**2. Cheryl Pepiakitah v. Oklahoma State Penitentiary State of Oklahoma, File #CM2015-07480X**

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. John R. Colbert represented for the Claimant and Cynthia J. Braly represented the Respondent.

*Motion:* After reviewing the record, hearing oral arguments, and deliberating, Commissioner Russell moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

*Second:* Commissioner Tilly.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: ALJ ORDER AFFIRMED**

**3. Ricardo Cervantes v. MITF, File #CM2016-05575AMIF**

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. James G. Devinney represented the Claimant and Michael Fagan represented the Respondent.

*Motion:* After reviewing the record, hearing oral arguments, and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

*Second:* Commissioner Russell.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: ALJ ORDER AFFIRMED**

4. **James Henry Long, Jr. v. FAM Enterprises Inc. and CompSource Mutual Ins Co., (FKA CompSource Oklahoma), File #CM2018-00583J**

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Brandon J. Burton represented the Claimant and Dana L. Gish represented the Respondent.

*Motion:* After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

*Second:* Commissioner Russell.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: ALJ ORDERS AFFIRMED**

5. **Shaun Jackson v. Barrett Trailers Inc. and Sentinel Insurance Co. LTD, File #CM2018-00827A**

Respondent filed an appeal from the order issued by Administrative Law Judge McMillin. Joe Farnan represented the Claimant and Robert P. Powell represented the Respondent.

*Motion:* After reviewing the record, hearing oral arguments, and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

*Second:* Commissioner Russell.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: ALJ ORDER AFFIRMED**

6. **Russell Dock Stripling v. Oklahoma Department of Public Safety, State of Oklahoma, File #CM2017-03081Y**

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Edward Grimes represented the Claimant and Cynthia J. Braly represented for the Respondent.

*Motion:* After reviewing the record, hearing oral arguments, and deliberating, Commissioner Russell moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

*Second:* Commissioner Tilly.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: ALJ ORDER AFFIRMED**

7. **Elbert Garlington v. ANR Transport LLC and Texas Mutual Insurance Co., File #CM2017-07475A**

Respondent filed an appeal from the order issued by Administrative Law Judge McMillin. Pamela K. Cornett represented the Claimant. Lewis A. Berkowitz represented Respondent ANR Transport LLC and Dana Gish represented Respondent Texas Mutual Insurance Co.

*Motion:* After reviewing the record, hearing oral arguments, and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

*Second:* Commissioner Russell.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: ALJ ORDER AFFIRMED**

8. **Jorge Garcia v. Drake Barnes, Barnes Construction Solutions, and Bitco National Insurance Company (FKA Bituminous Fire), File #CM2019-01894J**

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Arthur H. Adams represented the Claimant. Travis A. Fulkerson represented for Respondent.

*Motion:* After reviewing the record, hearing oral arguments, and deliberating, Commissioner Tilly moved to take this case under advisement.

*Second:* Commissioner Russell.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: TAKEN UNDER ADVISEMENT**

C. **Commission Consideration of Adoption of Final Orders in the Following Cases:**

1. **Vickie Elaine Franks v. Little Dixie Community Action Agency & CompSource Mutual Insurance (FKA CompSource Oklahoma) File #CM2016-05896A**

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Edward Grimes represented the Claimant and John S. Oldfield Jr., represented the Respondent.

This case came on for Oral Argument on August 23, 2019. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

**Motion:** Commissioner Tilly moved to adopt this order as proposed.

**Second:** Commissioner Russell.

**Those Voting Aye:** Chairman Liotta, Commissioner Russell and Commissioner Tilly.

**THE MOTION CARRIED: ORDER ADOPTED**

2. **John McArthur King Jr. v. Mulford Construction & CompSource Mutual Ins. Co., (FKA CompSource Oklahoma), File #CM2018-01333L**

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Rodney Palmer is the attorney of record for the Claimant. Robert A. Manchester is the attorney of record for Respondent Milford Construction. Jon L. Derouen Jr. is the attorney of record for the Respondent Tim Brown.

This case came on for Oral Argument on October 25, 2019. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

**Motion:** Commissioner Tilly moved to continue all remaining orders to the next appellate docket.

**Second:** Commissioner Russell.

**Those Voting Aye:** Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: ALL REMAINING ORDERS CONTINUED**

4. **Djohn Brown v. Spring House Water Co., Inc. & CompSource Mutual Ins., Co. (FKA CompSource Oklahoma), File #CM2017-01710J**

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Brad W. Wicker is the attorney of record for the Claimant and D. Wade Christensen is the attorney of record for the Respondent.

This case came on for Oral Argument on October 25, 2019. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

5. **Dennis Carbin Kolbe v. Multiple Injury Trust Fund, File #CM2016-07041KMIF**

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Sidney A. Musser Jr. is the attorney of record for the Claimant and Richard Cole is the attorney of record for the Respondent.

This case came on for Oral Argument on October 25, 2019. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

**D. Announcements**

Commission's next regular business meeting is Thursday, January 16, 2019. Commission's next regular meeting regarding Appeals is scheduled for Friday, January 24, 2020.

**ADJOURNMENT**

*Motion:* Commissioner Tilly moved to adjourn the meeting at approximately 1:56 p.m.

*Second:* Commissioner Russell.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: THE MEETING WAS ADJOURNED.**